



Department of General Services
Procurement Division
707 Third Street, Second Floor
West Sacramento, California 95605

MASTER SERVICES AGREEMENT ELECTRONIC LIBRARY SERVICES USER GUIDE

CONTRACTORS AND CONTRACT NUMBERS:

**5-03-76-01 to West, a Thomson Business
5-03-76-02 to LexisNexis
5-03-76-03 to Choice Point**

CONTRACT TERM: **March 1, 2004 through February 28, 2007**

SERVICE: **ELECTRONIC LIBRARY SERVICES**

DISTRIBUTION CODE: **ALL CONTRACTING OFFICES; LOCAL AGENCY LIST; MSA
CONTRACTORS, PD CENTRAL RECORDS**

NOTE: Electronic version of all documents associated with this MSA can be found on the DGS/PD
Internet web page: www.dgs.ca.gov/pd

USER GUIDE ISSUE DATE AND EFFECTIVE DATE: **March 1, 2004**

Any questions regarding this MSA shall be directed to the contract administrator:

**DEPARTMENT OF GENERAL SERVICES
PROCUREMENT DIVISION, MULTIPLE AWARD PROGRAM
DION CAMPOS, CONTRACT ADMINISTRATOR
707 THIRD STREET, 2ND FLOOR
WEST SACRAMENTO, CA 95605
PHONE (916) 375-4541
FAX (916) 375-4395
E-mail: dion.campos@dgs.ca.gov**

RUSS GUARNA, Purchasing Manager, Acquisitions Branch

ELECTRONIC LIBRARY SERVICES USER GUIDE

TABLE OF CONTENTS

Section I - Introduction and General Information	Page 3
A. DGS/Procurement – Division, Multiple Award Program Section (Maps) MSA Contract Administrator	Page 3
B. Contractor Listing	Page 4
C. Term Of MSA	Page 4
D. Restrictions	Page 4
E. Pricing	Page 4
F. Product Price Declines	Page 5
G. Contractor Collection and Payment of DGS Administrative Fee	Page 5
H. Customer Reporting Requirements	Page 5
I. Fourth and Fifth Year Contract Extension(s)	Page 6
J. Product Price Escalations and Declines	Page 6
K. Budget Details and Payment Provisions	Page 6/7
L. General Terms and Conditions	Page 7
M. Contractor Certification Clauses	Page 7
N. Settlement of Disputes	Page 7
O. Cancellation/ Termination	Page 8
P. Disabled Veteran Business Enterprise	Page 8
Q. Small Business Preference	Page 8
R. Local Agencies Guidelines for Use of This MSA	Page 8
Section II - Ordering Procedures	Page 9
A. Executing MSA Service Contract	Page 9
B. Contractor Cost/Service(s) Information	Page 9
Section III – Forms	Page 9

ELECTRONIC LIBRARY SERVICES

SECTION I

INTRODUCTION AND GENERAL INFORMATION

The Electronic Information Library Services Master Service Agreement (MSA) provides State and Local Agencies with access to firms that specialize in database research. These firms provide electronic access, via modem, Internet or CD-ROM, to their Legal, Public Records or Business/News databases.

This MSA offers the following benefits to State and Local Agencies:

1. Able to download most current legal, public records and business/news information to the desktop of legal and professional staff within minutes.
2. Eliminate time and expense associated with the establishment and maintenance of hard copies of important reference materials.
3. Reduced rates (monthly or hourly) based on aggregated statewide volumes.
4. Eliminate extensive bidding and contracting procedures by using the standardized MSA ordering process.
5. The agency manages the project, approves the deliverables, and authorizes payment to the contractor.
6. DGS/ Contractor online Fixed Pricing.
7. DGS online Suppliers Catalog.

A Local Agency is any city, county and any other government body empowered to spend public revenues. **While the State of California makes this Master Agreement available to Local Agencies, they should make their own determination whether it is consistent with their local procurement policies and regulations.**

PCC 10298 b. states that DGS “makes available to any city and county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology or services for assisting the agency in acquisitions conducted”.

Local agency requirements are listed in Page 5, Section 1 – I.

All contractors that have been selected for this MSA type of service is exempt from Non Competitive Bidding (previously called Sole Source) per MM 03-10 Section D item 13, and an NCB is not required to issue your service contract.

A. DGS/PD, MULTIPLE AWARD PROGRAM SECTION (MAPS) CONTRACT ADMINISTRATOR

Dion Campos
707 Third Street, Second Floor
West Sacramento, CA 95605
Voice: 916/375-4541
Fax: 916/375-4395
E-mail: dion.campos@dgs.ca.gov

ELECTRONIC LIBRARY SERVICES

B. CONTRACTOR LISTING

MSA 5-03-76-01

West, a Thomson Business

Attn: Janet Kennedy
610 Opperman Drive
Location (D5-S495)
Eagan, MN 55123
Phone: 651/687-5657 Fax: 651/6875686
E-mail: janet.kennedy@thomson.com

MSA 5-03-76-02

LexisNexis, a division of Reed Elsevier Inc.

Attn: Melody Johnson
3192 Swallows Nest Drive
Sacramento, CA 95833
Phone: 916/649-8125 Fax: 509/272-2377
E-mail: melody.johnson@lexisnexis.com

MSA 5-03-76-03

Choice Point

Attn: Virginia Rudzinskas
3769 Loma Drive
Shingle Springs, CA 95682
Phone: 530/676-3065 Fax: 530/677-0960
E-mail: Virginia.rudzinskas@choicepoint.net

C. TERM OF MSA

The term of this Master Service Agreement (MSA) is three (3) years, with two (2) one-year renewals at the option of the State. The contract start date is March 1, 2004 through February 28, 2007.

D. RESTRICTIONS

There are no restrictions for this MSA.

E. PRICING

All contractors' price schedules for this MSA are fixed rates for the entire term of this MSA. Ordering agencies will pay the rate specified on the DGS website, rates may not exceed this published contract rate; contractors may agree to reduce their rates on an individual project basis.

ELECTRONIC LIBRARY SERVICES

F. PRODUCT PRICE DECLINES

Price declines shall be effective immediately upon any public notification of the decline.

1. Price Declines-All prices quoted shall be firm fixed maximum for the first three years of the contract period. However, should a price decline be announced by the contractor after contract award, and is prior to the State utilizing the services, then the contractor shall pass the savings in total to the State of California. Any interest, finance, or other charges based on the contract price will be recomputed using the original bid rates and the differences will also be passed to the State in total.

G. CONTRACTOR COLLECTION AND PAYMENT OF THE DGS MANAGEMENT FEE

The current DGS administrative fee is set at 2.13% specified percentage of invoiced sales. The said administrative fee shall be added to the contractor billing and recovered from the participants requesting use of this contract. The Contractor is required to pay to DGS the recovered administrative fee in the form of a check payable to: Department of General Services, Procurement Division, and (Multiple Award Program). The Contractors must pay the assessed administrative fee to the State of California commencing 45 days after contract start date, continual by the 30th calendar day of each proceeding month. This service will be performed by Contractor at no additional charge to DGS or participants.

The checks should be mailed to:

State of California – DGS
Procurement Division 707 Third Street, Second Floor
P.O. Box 989054
West Sacramento, CA 95605
Attn: Dion Campos, Multiple Award Program

DGS shall annually set the percentage for such administrative fee and shall notify Contractor of the percentage set each year. Contractor shall show said administrative fee as a separate line item on each Participants monthly invoice report. Payment of the administrative fee by Contractor shall be made to DGS irrespective of reimbursement by each Participating State or Local Government Agency. DGS represents that it may at its discretion make separate arrangements with any Participating Subdivision for recovery of a DGS administrative fee on a direct payment method from any said Participants.

H. CUSTOMER REPORTING REQUIREMENTS

The users of this contract shall provide the Department of General Services (DGS) - Procurement Division (PD), contract administrator a copy of their Std. 213 and Std. 215 or comparable ordering documents for local government contract agreement for services.

ELECTRONIC LIBRARY SERVICES

I. FOURTH AND FIFTH YEAR CONTRACT EXTENSION

Ninety (90) days prior to the contract term date, each Contractor shall in writing request to the State of California DGS Contract Administrator, that the State utilize its option for a one year contract extension.

J. PRODUCT PRICE ESCALATIONS AND DECLINES

Price escalations and declines can only occur if approved by the Department of General Services, Contract Administrator and only after the third year of the contract term. Price declines shall be effective immediately upon any public notification of the decline.

1. Price Escalation

Prices quoted shall be a firm fixed price for three (3) years. Prices may be allowed to escalate after the third year by mutual agreement with a maximum of two (2) percent annual increase; however, only one price escalation may be allowed within any twelve (12) month period after the third year of this MSA.

2. Price Declines

Should a price decline be announced by the contractor after contract award, and prior to the State utilizing the services, then the contractor shall pass the savings in total to the State of California. Any interest, finance, or other charges based on the contract price will be recomputed using the original bid rates and the differences will also be passed to the State in total.

K. BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- a. For services satisfactorily rendered, and upon receipt and approval of the invoices. The State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

2. Budget Contingency Clause

- a. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreements and Contractor shall not be obligated to perform any provision of this Agreement.
- b. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the potion to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

ELECTRONIC LIBRARY SERVICES

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5 commencing with Section 927.

L. GENERAL TERMS AND CONDITIONS

PLEASE NOTE: Contractor signed and agreed to the General Terms and Conditions (GTC - 103) and will be included in the agreement by referenced to Internet site: www.dgs.ca.gov/contracts .

M. CONTRACTOR CERTIFICATION CLAUSES

PLEASE NOTE: Contract signed and agreed to the contractor Certification Clauses (CCC - 103) and will be included in the agreement by referenced to Internet site: www.dgs.ca.gov/contracts .

N. SETTLEMENT OF DISPUTES

In the event of a dispute, Contractor shall file a "Notice of Dispute" with (Agency Name, Director or Designee Title) within ten (10) days of discovery of the problem.

- a. Except where the State has specifically retained the right in this Agreement to make the final decision on a matter which Contractor must accept as final, any dispute concerning a question of fact arising under the terms of this agreement which is not disposed of within a reasonable period of time by the Contractor and State employees normally responsible for the administration of this contract shall be brought to the attention of the Chief Executive Officer (or designated representative) of each organization for joint resolution. At the request of either party, the State shall provide a forum for discussion of the disputed item(s), at which time the Deputy Director, Procurement Division of the Department of General Services, or a representative, shall be available to assist in the resolution by providing advice to both parties as to the State of California policies and procedures. If agreement cannot be reached through the application of high level management attention, either party may assert its other rights and remedies within this contract or within a court of competent jurisdiction.
- b. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract. Contractor shall continue with the responsibilities under this Agreement during any dispute.

ELECTRONIC LIBRARY SERVICES

O. CANCELLATION/TERMINATION

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

- a. The term “for cause” shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract.
- b. Contract termination or cancellation shall be effective as of the date indicated in the State’s notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.

P. DISABLED VETERAN BUSINESS ENTERPRISE

There are no subcontracting possibilities for Disabled Veteran Business Enterprise (DVBE) participation goals and therefore were not included as a bid requirement for this MSA.

Q. SMALL BUSINESS PREFERENCE

None of the contractors were certified California Small Businesses, therefore this preference was not included as a bid requirement for this MSA.

R. LOCAL AGENCIES GUIDELINES FOR USE OF THIS MSA

1. Local agencies must have obtained internal approval prior to issuing an order against this MSA. Local agencies must agree to all the terms and conditions of this MSA when issuing orders against this MSA.
2. Local agencies may use their own contract forms but must include all pertinent information as required by State ordering agencies—the data elements are described in Section VI, Forms
3. DGS charges the users of this MSA an administrative fee. The DGS administrative fee is a specified percentage of contracted services. DGS annually sets the percentage for such administrative fee. Agencies using this MSA should check the DGS website for current rates. The DGS administrative fee shall be added to the contractor’s rates for this MSA. Local agencies must agree to the State’s administrative fee. The Contractor will include in your invoice the management fee bill the local agency for using this MSA as outlined above.

ELECTRONIC LIBRARY SERVICES

SECTION II

ORDERING PROCEDURES

This user guide is designed to help the ordering agency with the final selection of a Contractor. In addition to procedures found in this user guide and the DGS/OLS State Contracting Manual, the ordering agency's internal contract procedures also must be followed.

A. EXECUTING MSA SERVICE CONTRACT

1. Preparation of Contract (refer to Section IV, Forms)

Following their individual department/agency contracting procedures, State Agencies should use the state Standard Agreement (STD.213 and STD. 215) to initiate the MSA Service Contract. The ordering agency's DGS billing code must be listed on the Std. 213 state form.

Do not change or repeat the terms and conditions of this MSA...Note: The MSA contract language with DGS is incorporated by reference and is not attached to the ordering agency's contract.

2. Processing of Contracts for State Agencies

- a) **Contracts ≤\$50,000 are exempt from DGS/OLS Review/Approval**
- b) Follow individual department/agency's procedure for distributing completed contracts.

3. **Contracts ≥\$50,000 are subject DGS/OLS Review/Approval COPIES NEEDED FOR STD. 213, and STD. 215;** follow the existing Standard State Contracting process with OLS.

SECTION III

FORMS

See DGS Website www.ols.dgs.ca.gov then selects the proper form(s).

ELECTRONIC LIBRARY SERVICES MODIFICATION TO SPECIAL PROVISIONS

Attachment 4.1

REPORTING REQUIREMENTS INVOICING OPTION

Contractor cannot provide the State with invoices in triplicate; however, the State can elect to receive PowerInvoice at no additional cost to the State.

PRICE SCHEDULE ADDITIONAL LANGUAGE

At the end of the second sentence of the first paragraph, the following will be added:
“, excluding the pay as you go pricing plan options (State/Local Per Search, State/Local Hourly and CourtLink Per Search) which may be increased upon thirty days prior written notice to State.”

ELECTRONIC LIBRARY SERVICES GENERAL TERMS AND CONDITIONS

**Attachment 6
Agreement Number: 5-03-76-02**

GENERAL TERMS AND CONDITIONS For Use of the LexisNexis Services Effective April 1, 1996

The following terms and conditions govern your use of the LexisNexis services (the "Online Services") and the materials available therein ("Materials"):

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1.1 You are granted a nonexclusive, nontransferable, limited license to access and use for research purposes the Online Services and Materials from time to time made available to you. This license includes:

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(d) With respect to Materials that are United States patents ("Authorized Patent Materials"), the right to retrieve via downloading commands of the Online Services and store in machine-readable form, primarily for one person's exclusive use, a single copy of not more than 200 patents at any one time; and

(e) With respect to all Materials other than Authorized Legal Materials and Authorized Patent Materials, the right to retrieve via downloading commands of the Online Services and store in machine-readable form for no more than 90 days, primarily for one person's exclusive use, a single copy of insubstantial portions of those Materials included in any individual file to the extent the storage of those Materials is not further limited or prohibited by the Supplemental Terms for Specific Materials.

1.2 To the extent permitted by applicable copyright law and not further limited or prohibited by the Supplemental Terms for Specific Materials, you may make copies of Authorized Printouts and distribute Authorized Printouts and copies.

1.3 Except as specifically provided in Sections 1.1 and 1.2, you are prohibited from downloading, storing, reproducing, transmitting, displaying, copying, distributing, or using Materials retrieved from the Online Services. You may not print or download Materials without using the printing or downloading commands of the Online Services.

1.4 All right, title, and interest (including all copyrights and other intellectual property rights) in the Online Services and Materials (in both print and machine-readable forms) belong to the provider of the Online Services or its third party suppliers of materials. You acquire no proprietary interest in the Online Services, Materials, or copies thereof.

ELECTRONIC LIBRARY SERVICES GENERAL TERMS AND CONDITIONS

Attachment 6 Agreement Number: 5-03-76-02

1.5 Except as specifically provided herein, you may not use the Online Services or Materials retrieved from the Online Services in any fashion that infringes the copyrights or proprietary interests therein.

1.6 You may not remove or obscure the copyright notice or other notices contained in Materials retrieved from the Online Services.

1.7 You may not use information included in the Online Services or Materials retrieved from the Online Services to determine a consumer's eligibility for (a) credit or insurance for personal, family, or household purposes; (b) employment; or (c) a government license or benefit.

1.8 Other provisions that govern your use of Materials are set forth in your applicable price schedule, the Supplemental Terms for Specific Materials, online descriptions of files, online notices following file selection, and individual documents retrieved from the Online Services (collectively, the "Additional Terms"), all of which are incorporated by reference into these General Terms and Conditions.

2. ACCESS TO SERVICES

2.1 Only individuals authorized by the subscribing organization may access and use the Online Services.

2.2 You may not use an identification number to access the Online Services from outside the country for which it was issued.

2.3 Your identification number(s) may be restricted from accessing certain Materials otherwise available in the Online Services.

2.4 Materials and features may be added to or withdrawn from the Online Services and the Online Services otherwise changed without notice.

3. LIMITED WARRANTY

3.1 The provider of the Online Services represents and warrants that it has the right and authority to make the Online Services and Materials available pursuant to these General Terms and Conditions.

3.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 3.1, THE ONLINE SERVICES AND MATERIALS ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND THE PROVIDER OF THE ONLINE SERVICES AND EACH THIRD PARTY SUPPLIER OF MATERIALS EXPRESSLY DISCLAIM ALL WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. LIMITATION OF LIABILITY

4.1 A Covered Party (as defined below) shall not be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the Online Services or any Materials available or not included therein, (b) the unavailability or interruption of the Online Services or any features thereof or any Materials, (c) Subscriber's use of the Online Services or Materials (regardless of whether you received any assistance from a Covered Party in using the Online Services), (d) your use of any equipment in connection with the Online Services, (e) the content of Materials, or (f) any delay or failure in performance beyond the reasonable control of a Covered Party.

4.2 "Covered Party" means (a) the provider of the Online Services, its affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of the provider of the Online Services or its affiliates; and (b) each third party supplier of Materials, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of Materials or any of their affiliates.

ELECTRONIC LIBRARY SERVICES GENERAL TERMS AND CONDITIONS

Attachment 6 Agreement Number: 5-03-76-02

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4.4 THE COVERED PARTIES SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE ONLINE SERVICES, MATERIALS, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS, REGARDLESS OF ANY NEGLIGENCE OF ANY COVERED PARTY.

5. MISCELLANEOUS

5.1 These General Terms and Conditions, including the Additional Terms, may be changed from time to time by the provider of the Online Services immediately upon written notice to you. Charges and payment terms (the standard State and Local Government Per Search and Hourly Price Schedules along with the Standard Courtlink Price Schedule) may be changed in accordance with your applicable price schedules. Your subscription for access to the Online Services may be terminated immediately upon notice to the provider of the Online Services if any change is unacceptable. Continued use of the Online Services following the effective date of any change constitutes acceptance of the change. In accordance with Attachment 4.1, nothing in this Section 5.1 shall be construed to include changing the CA MSA Price Schedule marked as Attachment 5. The prices in the CA MSA Price Schedule are fixed and not subject to change during the term unless mutually agreed to by both parties in writing.

5.2 The provider of the Online Services or the subscribing organization may terminate the subscription for access to the Online Services. The effective date of termination shall be ten days after the receipt of an appropriate notice of termination, unless a later date is specified in the notice. The provider of the Online Services may suspend or discontinue providing the Online Services to you without notice and pursue any other remedy legally available to it if you fail to comply with any of your obligations hereunder.

5.3 Except as otherwise provided herein, all notices and other communications hereunder shall be in writing or displayed electronically in the Online Services by the provider thereof. Notices shall be deemed to have been properly given on the date deposited in the U.S. mails, if mailed; on the date first made available, if displayed in the Online Services; or on the date received, if delivered in any other manner. Notices to the provider of the Online Services should be sent to your account representative.

5.4 The failure of the provider of the Online Services or any third party supplier of Materials to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.

5.5 The subscribing organization or individual may not assign its rights or delegate its duties under the subscription to access the Online Services without the prior written consent of the provider of the Online Services.

5.6 These General Terms and Conditions and the Additional Terms shall be governed by and construed in accordance with the laws of the State of California.

5.7 Each third party supplier of Materials has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.

ELECTRONIC LIBRARY SERVICES

SUPPLEMENTAL TERMS FOR SPECIFIC MATERIALS

Attachment 7

Agreement Number: 5-03-76-02

November 1, 2003
LexisNexis™ Services
SUPPLEMENTAL TERMS FOR SPECIFIC MATERIALS

These Supplemental Terms for Specific Materials contain terms applicable to certain Materials. You may not have access to all of the Materials referenced herein.

1. AFX News Limited Database

AFX News Limited ("AFX") obtains information for inclusion in its databases from sources which it considers reliable, but AFX shall not be liable for any inaccuracies in its databases, whether caused by negligence or otherwise. AFX MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, ADEQUACY OR COMPLETENESS OF THE DATABASES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. AFX's liability to you for direct loss or damage, whether in contract, tort or otherwise, shall be limited to an amount equivalent to the fee paid by you for access to the AFX databases during the twelve months preceding the date such cause of action is alleged to have arisen. AFX shall not in any circumstances be liable to you, whether in contract, tort or otherwise, for any consequential or indirect loss or damage or any loss of profits or loss of contracts howsoever arising.

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4. American Society of Health System Pharmacists Materials

DIF is provided for informational purposes only. Drug therapy decisions are the responsibility of the clinician. The entire monography should be reviewed.

ELECTRONIC LIBRARY SERVICES

SUPPLEMENTAL TERMS FOR SPECIFIC MATERIALS

Attachment 7

Agreement Number: 5-03-76-02

5. Asia Pulse Pte Limited

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- (c) IF, NOTWITHSTANDING THE ABOVE, AXEL SPRINGER AG IS HELD TO BE LIABLE, THE AMOUNT OF SUCH LIABILITY SHALL NOT EXCEED \$10,000 (USD).

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ELECTRONIC LIBRARY SERVICES

SUPPLEMENTAL TERMS FOR SPECIFIC MATERIALS

Attachment 7

Agreement Number: 5-03-76-02

8. Bureau of National Affairs, Inc. Materials

These materials may not be resold and may only delivered in the ordinary course of rendering legal, consulting, market research, or other similar services to clients. You may not redistribute these materials via Lotus Notes.

9. CELEX Database

You may not publish, broadcast, sell or otherwise redistribute these materials for commercial purposes.

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